

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.**

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| In re Application of |) | |
| |) | |
| KLSN-LP Low Power FM |) | BLSTA - 20190130AAJ |
| Friends of Oakley Community Foundation |) | BLL - 20170228AAO |
| Oakley, California |) | Facility ID: 194303 |

INFORMAL OBJECTION

Petitioner Julian Peterson (Petitioner) submits this Informal Objection against the above captioned applications filed for low power FM station KLSN-LP of Oakley, California. Petitioner lives, works and travels within the service contour of license claimed by low power station KLSN-LP.

On January 14, 2019, Mr. Chris Ponsano filed through the FCC'S CDBS a Resumption of Operations stating KLSN returned to the airwaves ¹. Then on January 30, 2019, Mr. Ponsano filed notice via application # BLSTA-20190130AAJ of going silent again ². However, when monitoring the frequency during that time, no signal was heard on-air. It has been more than a year since KLSN's last broadcast.

As documented in the attached information from local press and public records of the City of Antioch (CA) dating to early 2017, City officials never actually gave to Mr. Ponsano permission to colocate an antenna at their facility at the time he filed a Form 319 license application at the site listed on the applications, FCC Antenna Structure Registration Number 1049598³. After the eventual discovery of the unauthorized operation installed at the site in early 2018 by field staff of American Tower LLC.⁴ in violation of the City's sublease agreement, reentry was prohibited. It would not have been possible to resume operations in accordance with the broadcast applications.

The application for Silent authorization BLSTA-20190130AAJ should therefore be denied, and the license - BLL- 20170228AAO - should be cancelled.

The articles from the local newspapers, public records from the City of Antioch and a lawsuit in Contra Costa County Superior Court all provide accounts in the public record exposing Mr. Ponsano's lack of authorization to use the tower site registered with the FCC and managed by American Tower, LLC.

For example, the attached article published March 23, 2018 in Brentwood Press provides a quote from Antioch mayor Sean Wright⁵ directly contradicting Mr. Ponsano's claims of permission.

¹ Resumption of Operations at https://licensing.fcc.gov/cgi-bin/ws.exe/prod/cdbs/pubacc/prod/corrp_list.pl?Facility_id=194303

² Silent STA application at https://licensing.fcc.gov/cgi-bin/ws.exe/prod/cdbs/pubacc/prod/app_list.pl?Am=20190130AAJ

³ FCC Tower 1049598, 4701 Vista Grand Dr: <http://wireless2.fcc.gov/UlsApp/AsrSearch/asrRegistration.jsp?regKey=611311>

⁴ Attached article *Inside Towers* 3/12/18, Engineer reports "note from towerco asking: "Who are you?", requests AMT contract #.

⁵ See Dr. Wright quote in attached article, *Brentwood Press*, 3/23/18, "There was no handshake agreement from me."

No mayor in the State of California can bypass due diligence and make unilateral decisions on use of city facilities at taxpayers' expense. Nor is it advisable for a mayor to order city staff to avail personal favors to an individual with no previous experience, no track record or competitive bidding process, for personal gain by the station manager and/or a family member who holds a license. Use of public resources and governmental facilities must follow process, ensure transparency, steer clear of conflict-of-interest issues, and allow for public comment and participation.

Bypassing normal process would surrender the opportunity and obligation to require reasonable conditions, including adherence to nondiscrimination and ADA policies, periodic reportings with metrics, and other mechanisms to ensure a basic responsiveness to diverse community needs and interests.

A California Public Records Act request via Government Code Section 6250 revealed a previous email from the Antioch city attorney dated January 18, 2017 reporting a review of its lease with American Tower, LLC., and concluding that the City could not sublease facilities to Mr. Ponsano⁶.

However, in an ill-advised move, it appears that Mr. Ponsano disregarded the City Attorney and persisted in misrepresenting himself to the tower company corporate offices as somehow having authorities from city officials to enter the site. In filing for the license at that location just weeks after the City Attorney's clear memo, Ponsano effectively violated the city's trust, and the terms of its site lease. Among the liabilities caused include reports of unpaid backbilling for KLSN's unauthorized use of the site, which even at discounted market rates is estimated in tens of thousands of dollars. Such bills stand to be borne by taxpayers of Antioch and/or Oakley (by way of the city counsel member serving on the KLSN licensee board), while Mr. Ponsano escapes compliance and due financial responsibility.

With his new Resumption of Operations, Mr. Ponsano is now representing to the Commission as having suddenly regained access to the City's facilities at FCC registered tower site # 1049598, which would have first required reworking the City's site lease agreement and satisfying the outstanding debts with American Tower. Yet no station programming, call sign or even a carrier signal was ever detected again on the local airwaves at 92.9 FM since January 2018.

It is also noted that Mr. Ponsano apparently took it upon himself to completely eliminate from the FCC applications any direct contact information to representatives of the nonprofit organization which holds the license for KLSN (Friends of Oakley Community Foundation - FOCF), replacing only with his own information and signature.

Yet according to records on file with the California Secretary of State, Mr. Ponsano is neither a board director of the corporation⁷, nor is he listed as an agent of service authorized to represent the FOCF organization, or sign FCC application forms on behalf of Friends of Oakley Community Foundation,

⁶ See attached email, January 18, 2017, Antioch City Attorney Michael G. Vigilia.

⁷ CA SOS #C3099068 <https://businesssearch.sos.ca.gov/CBS/SearchResults?SearchType=NUMBER&SearchCriteria=C3099068>

which includes the following provision:

“Willful false statements on this form are punishable by fine and/or imprisonment (u.s. Code, title 18, section 1001), and/or revocation of any station license or construction permit (u.s. Code, title 47, section 312(a)(1)), and/or forfeiture (u.s. Code, title 47, section 503).”

Furthermore, available IRS Form 990 tax records at Guidestar.com for FOCF have not been updated to report a salary or any of the income procured by Mr. Ponsano through his advertising activities and sponsorship announcements over the station's airwaves. The failure to provide fiscal transparency stands to further stir concerns among the city council, staff, and community members, while risking to further jeopardize any chances of justifying approval for a rent-free lease on city property.

Finally, there is state-level legislation in place that counter the likelihood of Mr. Ponsano's claims of ever having access to the tower site for either the original application or in the recent Resumption of Operations. For the mayor of Antioch to actually help Mr. Ponsano and his uncle would have not only crossed several violations of California's Ralph M. Brown Act⁸ (1953) and other applicable fiscal and sunshine ordinances where public resources and taxpayer funds are concerned, but could also run afoul of provisions codified within the Conflicts of Interest Rules and The Political Reform Act under the jurisdiction of the California Fair Political Practices Commission⁹.

The various factors stemming from the familial relationships between the elected official of one municipality (Antioch) assisting a founder of the licensee board, also a prominent elected official of a neighboring municipality (Oakley), raises serious questions. For example, the FPPC has continually reaffirmed where the Fair Political Practices Code expressly prohibits use of public funds to feature elected officials in newsletters and campaign-related communications.

Here the scenario offered by Mr. Ponsano as constituting 'authorization' would have an elected official assisting another with a voting share and fiduciary interest in the station, who is ultimately liable and responsible for editorial discretion over what content is broadcast, and who can direct or support the station manager in excluding other programming, all at taxpayers expense. The parallels concerning the use of public resources, elected officials, familial relationships and control over content, whether print or broadcast medium, will likely be of interest to the Fair Political Practices Commission.

While FPPC issues were not previously raised in the local press, reasonable and vigilant city attorney staff in the State of California would have been well served to conduct conflict-of-interest analyses, consider the liabilities of such dynamics, and advise accordingly.

All factors taken into account make it highly unlikely that Mr. Ponsano would have actually been given *carte-blanc* clearance from city officials to colocate to a city-owned facility and resume of broadcasts at the FCC registered tower site specified in BLL-20170228AAO without first resolving such issues.

⁸ CA OAG: *Brown Act: Open Meetings For Local Legislative Bodies* http://ag.ca.gov/publications/2003_Intro_BrownAct.pdf

⁹ California Fair Political Practices Commission, FPPC Regulations - <http://www.fppc.ca.gov/the-law/fppc-regulations.html>

For the reasons stated herein, the application for the silent authority sought in BLSTA- 20190130AAJ should therefore be denied, and the original license – BLL-20170228AAO should be cancelled.

In its place, the commission could reopen a mini application window for the LPFM frequency to other qualified applicants in the are to apply for the frequency to operate in a more responsible manner and serve the public interest.

Under penalty of perjury, the undersigned declare under the laws of the United States that the foregoing is true and correct.

Executed on this 19th day of February, 2019.

Respectfully submitted,

ISI

Mr. Julian Peterson
5255 Neroly Rd.
Oakley, CA 94561

February 19, 2019

Cc: (by US Mail)

- City of Antioch
 - Friends of Oakley Community Foundation
 - American Tower, Inc.
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Exhibits:

March 2018: News articles in *Brentwood Press* and *Inside Towers*.

- References to lack of permission to use tower location highlighted in yellow.

January 2017: Email from City Attorney for City of Antioch, California

- References to lack of permission to use tower location

March 2017: FCC License authorization issued for KLSN-LP FM (BLL-20170228AAO)

- References tower site, FCC Antenna Structure Registration Number 1049598

January 14, 2019: Resumption of Operations

- No change of site; location defaults to FCC Antenna Structure Registration Number 1049598

CERTIFICATE OF SERVICE

I certify that on this 19th day of February 2019, I have caused copies of the foregoing Informal Objection, were served electronically and first class mail:

Office of the Secretary &
Chief, Audio Division, Media Bureau
Federal Communications Commission
445 Twelfth Street S.W.
Washington D.C. 20554

Friends of Oakley Community Foundation
Nicole Impagliazzo – Agent of Service
2063 Main Street, STE 250
Oakley CA 94561

Arne Simonsen, City Clerk
City of Antioch
200 H Street
Antioch, California 94509

American Tower Corporation
c/o Account Manager
1850 Mt Diablo Blvd,
Walnut Creek, CA 94596

Signed,

JSI

Mr. Julian Peterson
5255 Neroly Rd.
Oakley, CA 94561

February 19, 2019